

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present Amendment and the following discussion, is respectfully requested.

Claims 25-54 were pending. Claims 34 and 35 have been cancelled by this amendment, and Claims 28 and 25 have been modified by this amendment. No new matter has been added.

In the office action, claims 28-37, and 54 were rejected under 35 USC 112, second paragraph, as being indefinite; and claims 28,-35, 37, and 54 were rejected under 35 USC 102(b) as being anticipated by Hirschfeld et al.

Initially, Applicants would like to thank the Examiner for the courtesies extended their representative during the interview on July 9, 2008.

During the interview on July 9, 2008, the Examiner tentatively agreed that the proposed amendments discussed during that interview would overcome both the 35 USC 112 second paragraph rejection and the rejections over Hirschfeld. In short summary as to the latter, the Examiner agreed that Hirschfeld does not teach or suggest the control of the sealing of a biological element on the edges of a through-opening made in a support.

Hirschfeld discloses a method and a device allowing the user to carry out an immunoassay in a solid phase with the detection by fluorescence without physically separating the suspending liquid and the suspended solid phases involved in the immunoassay. The device comprises a capillary tube in which the immunoassay is carried out. It teaches sealing the tube as soon as the sample to be assay is collected.

In sharp contract, in the invention as recited in the amended claims, it is not the tube which is sealed, but a biological element (a cell, for example). The sample on which Hirschfeld's device and method acts is not a biological element, but a fluid suspension

comprising a suspending phase and a suspended phase which goes through the opening in the tube and fills the tube.

Moreover, the capillarity is a spontaneous movement of a liquid up or down in a narrow tube due to unbalanced molecular attraction at the boundary between the liquid and the tube. In sharp contrast, in Applicants' method the sealing of the biological element on the edges of the through-opening is effected by creating a depression in the opening—by suction, for example.

Accordingly, it is respectfully submitted that, as tentatively agreed by the Examiner during the interview, the amended claims now presented are allowable over Hirschfeld.

In view of the foregoing, an early and favorable action is respectfully requested.

Respectfully submitted,

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